

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO No. 428 of 2003 alongwith
Cross Objections No.536 of 2003.

Decided on: 08.03.2006.

H.R.T.C.

.....Appellant.

VERSUS

Hans Raj and others

.....Respondents.

Coram

The Hon'ble Mr. Justice Deepak Gupta, Judge.

***Whether approved for reporting?*¹ No**

For the Appellant : Mr.H.S.Rawat, Advocate.

For the Respondents : Mr.V.S.Chauhan, counsel for R-4.
Ms.Anita Dogra, vice counsel for respondent
No.5.

Deepak Gupta, Judge (oral)

This appeal by the HRTC under Section 173 of the Motor Vehicles Act is directed against the award of the learned Motor Accident Claims Tribunal, Solan passed in MAC Petition No. 29-S/2 of 2001 decided on 2.6.2003 whereby he has awarded compensation of Rs.2,50,000/- in favour of the claimant and held the HRTC and the driver Prem Lal liable to pay the same jointly and severally.

2. Brief facts of the case are that claimant Hans Raj was travelling as pillion rider on the Motor Cycle No.HIA-1222 belonging to Rajesh Kumar and insured with the National Insurance Company. There was a collision between this motorcycle and the HRTC bus No.HP-14-3530 driven by Prem Lal. The petitioner Hans Raj filed the claim petition alleging that the accident had occurred due to the rash and negligent driving of the driver of the bus. The HRTC and its driver contested the claim petition on

¹ ***Whether the reporters of the local papers may be allowed to see the Judgment? yes***

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the ground that the accident had occurred due to the rash and negligent driving of the motor-cyclist and according to the HRTC the police had registered the case against the motor-cyclist.

3. The petitioner appearing as PW-4 supported the version that the accident had occurred due to the rash and negligent driving of the bus. His version was supported by Rajesh Kumar the driver of the motorcycle. According to Rajesh Kumar he was on the left side of the road and the bus was being driven at a high speed in a rash and negligent manner and hit him. This version of the claimant and the driver of the motorcycle have not been rebutted by the HRTC by leading any evidence. Neither the driver of the bus was examined nor the FIR was proved on record. Therefore, the findings of the Tribunal with regard to the negligence are upheld.

4. As far as quantum is concerned, it is proved on record that the claimant has suffered 48% disability in relation to his lower limbs, which is 40% in relation to his whole body. It has also been proved by PW-1 Dr.S.R.Thakur and PW-7Dr.Pardeep Aggarwal that the claimant had to undergo two operations and long treatment. According to Dr.Agarwal the expenses for operation and follow up treatment would be between Rs.one lakh to Rs.1.25 lakh. The claimant has not been awarded any amount for attendant charges, special diet etc. The total award of Rs.2,50,000/- in my opinion is in fact on the lower side and calls for no interference whatsoever.

5. In view of the above discussion, the appeal is without any merit and is dismissed with no order as to costs.

Cross Objections No.536 of 2003:

In view of the judgment of the full Bench of this Court rendered in **FAO No.267/1993 titled Ms.Lata vs. United India Insurance Company and others** decided on 27th October, 2004 the

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cross objections filed by the claimants are not maintainable, hence rejected.

March 8, 2006
PV

(Deepak Gupta)
Judge.